

Bill no.:	HR 4157
Amendment no.:	1a
Date offered:	6/8/06
Disposition:	Not Agreed to by 11 years and 12 days

**AMENDMENT TO MR. DEAL'S AMENDMENT IN THE
NATURE OF A SUBSTITUTE FOR H.R. 4157
OFFERED BY MR. PALLONE**

[Page and Line Numbers Refer to HEALTHHIT02A of June 7,
2006]

At the end of title I [page 19, after line 16], add
the following new section:

1 SEC. 106. HEALTH INFORMATION TECHNOLOGY PAYMENT

2 ADD-ONS, GRANTS, AND LOANS.

3 (a) MEDICARE ADD-ON PAYMENT FOR HEALTH IN-
4 FORMATION TECHNOLOGY.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, the Secretary of Health and
7 Human Services (in this subsection referred to as
8 the “Secretary”) shall provide for payment under
9 this subsection (in a form and manner specified by
10 the Secretary) to each health care provider that fur-
11 nishes items or services for which payment may be
12 made (but for the application of a deductible, coin-
13 surance, or other cost-sharing) under part B of title
14 XVIII of the Social Security Act of the amount spec-
15 ified in paragraph (2) for items and services fur-
16 nished by the provider during the period specified in

1 paragraph (3). Such payments are in addition to
2 payments otherwise made under such part. This sec-
3 tion constitutes budget authority in advance of ap-
4 propriations Acts and represents the obligation of
5 the Federal Government to provide for the payment
6 of health care providers of the amounts provided
7 under paragraph (2).

8 (2) PAYMENT AMOUNT.—

9 (A) IN GENERAL.—The payment amount
10 under this paragraph with respect to items and
11 services furnished under part B of title XVIII
12 of the Social Security Act shall be such amount,
13 over such period of time, as the Secretary de-
14 termines appropriate based on the Secretary's
15 estimates of the costs of providers to acquire
16 and support qualified health information tech-
17 nology, including training of personnel with re-
18 spect to such technology. Subject to subpara-
19 graph (C), such amount may be computed as a
20 percent of the payment amount otherwise recog-
21 nized under such part for the provider and
22 items and services involved (determined without
23 regard to the application of any deductibles, co-
24 insurance, or other cost-sharing).

1 (B) SYSTEM REQUIREMENT.—No payment
2 shall be made under this subsection for quali-
3 fied health information technology unless that
4 technology includes—

5 (i) an electronic medical record, in-
6 cluding computerized patient records, clin-
7 ical decision support, and clinical data re-
8 pository; and

9 (ii) a computerized physician order
10 entry.

11 (C) LIMITATION.—In no case shall the
12 payment amount under this subsection with re-
13 spect to the acquisition or support of qualified
14 health information technology for a health care
15 provider, in addition to any grant made to the
16 provider under subsection (a) of section 274 of
17 the Public Health Service Act (as added by sub-
18 section (b)) for such purpose and the amount of
19 any loan made to the provider from a grant to
20 a State under subsection (b) of such section for
21 such purpose, exceed 100 percent of the pro-
22 vider's costs for such acquisition or support
23 (taking into account costs for training, imple-
24 mentation, and maintenance).

1 (D) QUALIFIED HEALTH INFORMATION
2 TECHNOLOGY DEFINED.—In this paragraph,
3 the term “qualified health information tech-
4 nology” means a system or components of
5 health information technology that meet any
6 applicable core interoperability guidelines (en-
7 dored under section 272(a)(3) of the Public
8 Health Service Act) when in use or that use
9 interface software that allows for interoper-
10 ability in accordance with such guidelines.

11 (3) LIMITATION ON USE OF FUNDS.—Payments
12 provided under this subsection to a health care pro-
13 vider may only be used for the purchase and support
14 of health information technology that meets any ap-
15 plicable core interoperability guidelines (endorsed
16 under section 272(a)(3) of the Public Health Service
17 Act) either directly or through the use of interface
18 software or other technology necessary to bring pre-
19 existing systems into compliance with such guide-
20 lines.

21 (4) SOURCE OF FUNDS.—Payments under para-
22 graph (1) shall be made from the Federal Supple-
23 mentary Medical Insurance Trust Fund, established
24 under section 1841 of such Act (42 U.S.C. 1395t).

1 (5) HEALTH CARE PROVIDER DEFINED.—For
2 purposes of this subsection, the term “health care
3 provider” means a hospital, home health agency, or
4 other provider of services or physician, health care
5 practitioner, or other supplier that furnishes items
6 and services described in paragraph (1), but does
7 not include a Medicare Advantage organization.

8 (6) APPLICATION TO INTEGRATED HEALTH
9 CARE DELIVERY SYSTEMS.—The Secretary shall pro-
10 vide for the application of the previous provisions of
11 this subsection to a Medicare Advantage sponsor of-
12 fering under part C of title XVIII of the Social Se-
13 curity Act a Medicare Advantage plan that inte-
14 grates the functions of health plan, hospital, physi-
15 cian, laboratory, pharmacy, and other clinicians,
16 with respect to items and services covered under
17 part B of such title, in the same manner as it ap-
18 plies to health care providers under part B of such
19 title.

20 (b) GRANTS AND LOANS.—Part D of title II of the
21 Public Health Service Act, as added by section 101 and
22 as amended by sections 103 and 104, is amended by add-
23 ing at the end the following new section:

1 **“SEC. 274. GRANTS TO FACILITATE THE WIDESPREAD**
2 **ADOPTION OF INTEROPERABLE HEALTH IN-**
3 **FORMATION TECHNOLOGY.**

4 “(a) COMPETITIVE GRANTS TO ELIGIBLE ENTI-
5 TIES.—

6 “(1) IN GENERAL.—The Secretary may award
7 competitive grants to eligible entities to facilitate the
8 purchase and enhance the utilization of qualified
9 health information technology systems to improve
10 the quality and efficiency of health care.

11 “(2) ELIGIBILITY.—To be eligible to receive a
12 grant under paragraph (1) an entity shall—

13 “(A) submit to the Secretary an applica-
14 tion at such time, in such manner, and con-
15 taining such information as the Secretary may
16 require;

17 “(B) submit to the Secretary a strategic
18 plan for the implementation of data sharing
19 and interoperability measures;

20 “(C) be—

21 “(i) a nonprofit hospital or a Feder-
22 ally qualified health center;

23 “(ii) an individual practice or group
24 practice; or

25 “(iii) another health care provider not
26 described in clause (i) or (ii);

1 “(D) adopt any applicable core interoper-
2 ability guidelines (endorsed under section
3 272(a)(3));

4 “(E) agree to notify patients if their indi-
5 vidually identifiable health information is
6 wrongfully disclosed;

7 “(F) demonstrate significant financial
8 need; and

9 “(G) provide matching funds in accordance
10 with paragraph (4).

11 “(3) USE OF FUNDS.—Amounts received under
12 a grant under this subsection shall be used to facili-
13 tate the purchase and enhance the utilization of
14 qualified health information technology systems and
15 training personnel in the use of such technology.

16 “(4) MATCHING REQUIREMENT.—To be eligible
17 for a grant under this subsection an entity shall con-
18 tribute non-Federal contributions to the costs of car-
19 rying out the activities for which the grant is award-
20 ed in an amount equal to \$1 for each \$3 of Federal
21 funds provided under the grant.

22 “(5) LIMIT ON GRANT AMOUNT.—In no case
23 shall the payment amount under this subsection with
24 respect to the purchase or enhanced utilization of
25 qualified health information technology for a health

1 care provider, in addition to payments to the pro-
2 vider under section 106(a) of the Better Health In-
3 formation System Act of 2006 for such purpose and
4 the amount of any loan made to the provider from
5 a grant to a State under subsection (b) of such sec-
6 tion for such purpose, exceed 100 percent of the pro-
7 vider's costs for such purchase or enhanced utiliza-
8 tion (taking into account costs for training, imple-
9 mentation, and maintenance).

10 “(6) PREFERENCE IN AWARDING GRANTS.—In
11 awarding grants under this subsection the Secretary
12 shall give preference to—

13 “(A) eligible entities that are located in
14 rural, frontier, and other underserved areas as
15 determined by the Secretary;

16 “(B) eligible entities that will link, to the
17 extent practicable, the qualified health informa-
18 tion system to local or regional health informa-
19 tion plan or plans; and

20 “(C) with respect to an entity described in
21 paragraph (2)(C)(iii), a nonprofit health care
22 provider.

23 “(b) COMPETITIVE GRANTS TO STATES FOR THE DE-
24 VELOPMENT OF STATE LOAN PROGRAMS.—

1 “(1) IN GENERAL.—The Secretary may award
2 competitive grants to States for the establishment of
3 State programs for loans to health care providers to
4 facilitate the purchase and enhance the utilization of
5 qualified health information technology.

6 “(2) ESTABLISHMENT OF FUND.—To be eligi-
7 ble to receive a competitive grant under this sub-
8 section, a State shall establish a qualified health in-
9 formation technology loan fund (referred to in this
10 subsection as a ‘State loan fund’) and comply with
11 the other requirements contained in this section. A
12 grant to a State under this subsection shall be de-
13 posited in the State loan fund established by the
14 State. No funds authorized by other provisions of
15 this section to be used for other purposes specified
16 in this section shall be deposited in any State loan
17 fund.

18 “(3) ELIGIBILITY.—To be eligible to receive a
19 grant under paragraph (1) a State shall—

20 “(A) submit to the Secretary an applica-
21 tion at such time, in such manner, and con-
22 taining such information (including the stra-
23 tegic plan described in paragraph (4)) as the
24 Secretary may require;

1 “(B) prepare and periodically update a
2 strategic plan under paragraph (4);

3 “(C) establish a qualified health informa-
4 tion technology loan fund in accordance with
5 paragraph (2);

6 “(D) require that health care providers re-
7 ceiving such loans—

8 “(i) link, to the extent practicable, the
9 qualified health information system to a
10 local or regional health information net-
11 work; and

12 “(ii) agree to notify patients if their
13 individually identifiable health information
14 is wrongfully disclosed; and

15 “(E) require that health care providers re-
16 ceiving such loans adopt any applicable core
17 interoperability guidelines (endorsed under sec-
18 tion 272(a)(3)).

19 “(4) STRATEGIC PLAN.—

20 “(A) IN GENERAL.— A State that receives
21 a grant under this subsection shall prepare and
22 periodically update a strategic plan that identi-
23 fies the intended uses of amounts available to
24 the State loan fund of the State.

1 “(B) CONTENTS.—A strategic plan under
2 subparagraph (A) shall include—

3 “(i) a list of the projects to be as-
4 sisted through the State loan fund for each
5 fiscal year;

6 “(ii) a description of the criteria and
7 methods established for the distribution of
8 funds from the State loan fund; and

9 “(iii) the short-term and long-term
10 goals of the State loan fund.

11 “(5) USE OF FUNDS.—

12 “(A) IN GENERAL.—Amounts deposited in
13 a State loan fund, including loan repayments
14 and interest earned on such amounts, shall be
15 used only for awarding loans or loan guaran-
16 tees, or as a source of reserve and security for
17 leveraged loans, the proceeds of which are de-
18 posited in the State loan fund established under
19 paragraph (1). Loans under this section may be
20 used by a health care provider to facilitate the
21 purchase and enhance the utilization of quali-
22 fied health information technology and training
23 of personnel in the use of such technology.

24 “(B) LIMITATION.—Amounts received by a
25 State under this subsection may not be used—

1 “(i) for the purchase or other acquisi-
2 tion of any health information technology
3 system that is not a qualified health infor-
4 mation technology system;

5 “(ii) to conduct activities for which
6 Federal funds are expended under this sec-
7 tion, or the amendments made by the Bet-
8 ter Health Information System Act of
9 2006;

10 “(iii) for any purpose other than mak-
11 ing loans to eligible entities under this sec-
12 tion; or

13 “(iv) for amounts above the total cost
14 of the acquisition, implementation, training
15 and maintenance of the qualified health in-
16 formation system of a health care provider
17 minus the sum of the amount of grant
18 funds received by the provider for such
19 purpose under subsection (a) and the
20 amount of payments to the provider under
21 section 106(a) of the Better Health Infor-
22 mation System Act of 2006 for such pur-
23 pose.

24 “(6) TYPES OF ASSISTANCE.—Except as other-
25 wise limited by applicable State law, amounts depos-

1 ited into a State loan fund under this subsection
2 may only be used for the following:

3 “(A) To award loans that comply with the
4 following:

5 “(i) The interest rate for each loan
6 shall be less than or equal to the market
7 interest rate.

8 “(ii) The principal and interest pay-
9 ments on each loan shall commence not
10 later than 1 year after the loan was award-
11 ed, and each loan shall be fully amortized
12 not later than 10 years after the date of
13 the loan.

14 “(iii) The State loan fund shall be
15 credited with all payments of principal and
16 interest on each loan awarded from the
17 fund.

18 “(B) To guarantee, or purchase insurance
19 for, a local obligation (all of the proceeds of
20 which finance a project eligible for assistance
21 under this subsection) if the guarantee or pur-
22 chase would improve credit market access or re-
23 duce the interest rate applicable to the obliga-
24 tion involved.

1 “(C) As a source of revenue or security for
2 the payment of principal and interest on rev-
3 enue or general obligation bonds issued by the
4 State if the proceeds of the sale of the bonds
5 will be deposited into the State loan fund.

6 “(D) To earn interest on the amounts de-
7 posited into the State loan fund.

8 “(7) ADMINISTRATION OF STATE LOAN
9 FUNDS.—

10 “(A) COMBINED FINANCIAL ADMINISTRA-
11 TION.—A State may (as a convenience and to
12 avoid unnecessary administrative costs) com-
13 bine, in accordance with State law, the financial
14 administration of a State loan fund established
15 under this subsection with the financial admin-
16 istration of any other revolving fund established
17 by the State if otherwise not prohibited by the
18 law under which the State loan fund was estab-
19 lished.

20 “(B) COST OF ADMINISTERING FUND.—
21 Each State may annually use not to exceed 4
22 percent of the funds provided to the State
23 under a grant under this subsection to pay the
24 reasonable costs of the administration of the
25 programs under this section, including the re-

1 covery of reasonable costs expended to establish
2 a State loan fund which are incurred after the
3 date of enactment of this section.

4 “(C) GUIDANCE AND REGULATIONS.—The
5 Secretary shall publish guidance and promul-
6 gate regulations as may be necessary to carry
7 out the provisions of this subsection,
8 including—

9 “(i) provisions to ensure that each
10 State commits and expends funds allotted
11 to the State under this subsection as effi-
12 ciently as possible in accordance with this
13 section and applicable State laws; and

14 “(ii) guidance to prevent waste, fraud,
15 and abuse.

16 “(D) PRIVATE SECTOR CONTRIBUTIONS.—

17 “(i) IN GENERAL.—A State loan fund
18 established under this subsection may ac-
19 cept contributions from private sector enti-
20 ties, except that such entities may not
21 specify the recipient or recipients of any
22 loan issued under this subsection.

23 “(ii) AVAILABILITY OF INFORMA-
24 TION.—A State shall make publicly avail-
25 able the identity of, and amount contrib-

1 uted by, any private sector entity under
2 clause (i) and may issue letters of com-
3 mendation or make other awards (that
4 have no financial value) to any such entity.

5 “(8) PREFERENCE IN AWARDING GRANTS.—

6 The Secretary may give a preference in awarding
7 grants under this subsection to States that adopt
8 value-based purchasing programs to improve health
9 care quality.

10 “(9) ANNUAL REPORTS.—

11 “(A) BY STATES TO THE SECRETARY.—

12 Each State receiving a grant under this sub-
13 section shall submit an annual report to the
14 Secretary for each fiscal year for which loans
15 are provided under the grant. Each annual re-
16 port shall include—

17 “(i) a description of the use of grant
18 funds by the State loan fund in the fiscal
19 year, including projects assisted through
20 such fund;

21 “(ii) a list of the projects to be as-
22 sisted through the State loan fund in the
23 succeeding fiscal year, as contained in the
24 strategic plan under paragraph (4);

1 “(iii) a description of the financial
2 status of the State loan fund; and

3 “(iv) such other information as the
4 Secretary may require regarding the grant
5 or the loan fund.

6 “(B) BY SECRETARY TO CONGRESS.—The
7 Secretary shall annually submit to the Com-
8 mittee on Health, Education, Labor, and Pen-
9 sions and the Committee on Finance of the
10 Senate, and the Committee on Energy and
11 Commerce and the Committee on Ways and
12 Means of the House of Representatives, a re-
13 port summarizing the reports received by the
14 Secretary under subparagraph (A).

15 “(c) AUTHORIZATION OF APPROPRIATIONS.—

16 “(1) IN GENERAL.— For the purpose of car-
17 rying out this section, there is authorized to be ap-
18 propriated \$116,000,000 for fiscal year 2007,
19 \$141,000,000 for fiscal year 2008, and such sums
20 as may be necessary for each of fiscal years 2009
21 through 2011.

22 “(2) AVAILABILITY.—Amounts appropriated
23 under paragraph (1) shall remain available through
24 fiscal year 2011.

25 “(d) DEFINITIONS.—In this section:

1 “(1) FEDERALLY QUALIFIED HEALTH CEN-
2 TER.—The term ‘Federally qualified health center’
3 has the meaning given that term in section
4 1861(aa)(4) of the Social Security Act (42 U.S.C.
5 1395x(aa)(4)).

6 “(2) GROUP PRACTICE.—The term ‘group prac-
7 tice’ has the meaning given that term in section
8 1877(h)(4) of the Social Security Act (42 U.S.C.
9 1395nn(h)(4)).

10 “(3) HEALTH CARE PROVIDER.—The term
11 ‘health care provider’ means a hospital, skilled nurs-
12 ing facility, home health agency (as defined in sub-
13 section (o) of section 1861 of the Social Security
14 Act, 42 U.S.C. 1395x), health care clinic, rural
15 health clinic, Federally qualified health center, group
16 practice, a pharmacist, a pharmacy, a laboratory, a
17 physician (as defined in subsection (r) of such sec-
18 tion), a practitioner (as defined in section
19 1842(b)(18)(CC) of such Act, 42 U.S.C.
20 1395u(b)(18)(CC)), a health facility operated by or
21 pursuant to a contract with the Indian Health Serv-
22 ice, and any other category of facility or clinician de-
23 termined appropriate by the Secretary.

24 “(4) HEALTH INFORMATION; INDIVIDUALLY
25 IDENTIFIABLE HEALTH INFORMATION.—The terms

1 ‘health information’ and ‘individually identifiable
2 health information’ have the meanings given those
3 terms in paragraphs (4) and (6), respectively, of sec-
4 tion 1171 of the Social Security Act (42 U.S.C.
5 1320d).

6 “(5) LABORATORY.—The term ‘laboratory’ has
7 the meaning given that term in section 353.

8 “(6) PHARMACIST.—The term ‘pharmacist’ has
9 the meaning given that term in section 804(a)(2) of
10 the Federal Food, Drug, and Cosmetic Act (21
11 U.S.C. 384(a)(2)).

12 “(7) QUALIFIED HEALTH INFORMATION TECH-
13 NOLOGY.— The term ‘qualified health information
14 technology’ means a system or components of health
15 information technology that meet any applicable core
16 interoperability guidelines (endorsed under section
17 272(a)(3)) when in use or that use interface soft-
18 ware that allows for interoperability in accordance
19 with such guidelines.

20 “(8) STATE.—The term ‘State’ means each of
21 the several States, the District of Columbia, Puerto
22 Rico, the Virgin Islands, Guam, American Samoa,
23 and the Northern Mariana Islands.”.

Strike title III (relating to promoting the use of
health information technology to better coordinate health
care).